

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)
Class III Certification to Conduct Gambling)
Activities of:)
Chantha C. Khuy)
Auburn, Washington,)
Class III Employee.)

NO. CR 2009-01844

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER OF SUMMARY
SUSPENSION OF LICENSE**

Pursuant to RCW 34.05.422(4), and Section V(L) of the Muckleshoot Indian Tribal-State Compact, the Washington State Gambling Commission (Commission) may summarily suspend a license or permit pending proceedings for revocation or other action. The Commission has authorized the Director to summarily suspend a license or permit under RCW 9.46.070(17) and WAC 230-17-165.

This matter has been brought before the Director for a summary suspension of Chantha C. Khuy's Class III Certification;¹ the Director has issued this order and caused it to be served upon the Class III employee. This order shall be effective immediately upon its service to the Class III employee, authorized representative or agent thereof, unless otherwise specified herein. By this authority, an authorized agent of the Commission shall seize Chantha C. Khuy's current certification authorizing gambling activity and his gambling activities shall cease as ordered.

FINDINGS OF FACT

I.

Rick Day is the Director of the Washington State Gambling Commission and issues this order in that capacity.

II.

Jurisdiction of this proceeding is based on Chapter 9.46 RCW, Gambling, Chapter 34.05 RCW, the Administrative Procedure Act, WAC Title 230, and the Muckleshoot Indian Tribal-State Compact.

¹ Class III Certification is issued to employees working at Tribal casinos. The certification authorizes similar activities as the Card Room Employee (CRE) license issued to individuals working at commercial house-banked card rooms. Holders of a Class III Certification may apply to have the certification transferred to a CRE license.

III.

The Washington State Gambling Commission issued Chantha C. Khuy of Auburn, the following Class III Certification: Number: 69-24069, Authorizing Class III Employee Activity, at the Muckleshoot Indian Tribe's Casino. The certification, which expires on October 17, 2010, was issued subject to the Class III employee's compliance with the Muckleshoot Indian Tribal-State Compact, state gambling laws and Commission rules.

IV.

After a thorough review of the Commission Special Agent's investigative report concerning the facts in this matter, the Director accepts the report as a verity and makes the determination that the action as ordered is warranted.

V.

SUMMARY:

The Class III employee, Chantha C. Khuy, was charged with 1st Degree Rendering Criminal assistance, a felony. This charge stems from the fact that Chantha C. Khuy participated in an act that involved physical harm to an individual, and ultimately resulted in that individual's death. Mr. Khuy was the driver of a vehicle where another individual in the same vehicle shot and killed an individual in a yard. Mr. Khuy has failed to prove by clear and convincing evidence that he continues to qualify for certification. These felony charges involve physical harm to an individual and moral turpitude. Mr. Khuy poses an immediate danger to public safety and welfare, and his certification should therefore be summarily suspended.

FACTS:

1. Chantha C. Khuy is currently a certified Class III employee, who has a tribal gaming license that has been suspended by the Muckleshoot Indian Tribe's Casino.
2. On December 15, 2009, a Gambling Commission Special Agent (agent) was assigned Mr. Khuy's file after Commission staff became aware of pending felony charge for 1st Degree Rendering Criminal Assistance, a Class A Felony, in a routine criminal check. This charge is currently pending in King County Superior Court.
3. On December 22, 2009, the agent obtained a copy of the Information and Probable Cause from King County Superior Court for Mr. Khuy's pending case.
4. The Information charges Mr. Khuy with 1st Degree Criminal Assistance. It alleges that on or about December 4, 2009, Mr. Khuy committed "a crime of the same or similar character as another crime charged herein, which crimes were so closely connected in respect to time, place, and occasion that it would be difficult to separate proof of one charge from proof of

the other as committed as follows:...Khuy..on or about December 4, 2009, with intent to prevent, hinder, or delay the apprehension or prosecution of Soretha Diep, did render criminal assistance to Soretha Diep, a person who he knew committed a Class A felony by providing such person with transportation.”

5. The Certification for Determination of Probable Cause included the following information:

- a. At 1:16 a.m., Renton police (police) were dispatched to a fight involving a gun at a Renton address.
- b. While in route, dispatch relayed that shots were fired, one person appeared to be shot and was lying in the driveway of the residence and a vehicle was leaving the scene.
- c. When police arrived, they found Joel Ortega with a gunshot wound to his lower back. Mr. Ortega died of the gunshot wound later in the day.
- d. During the police investigation, it was determined that Chantha Khuy drove three individuals to a residence in Renton, so one of the individuals could speak to his estranged wife. Jordan Allen, Sorentha Diep and Sokha Youn were also in the car.
- e. Once at the house, Mr. Allen started fighting with his cousin, Joshua Allen.
- f. The fight progressed, and moved to the front yard. Mr. Joshua Allen, Mr. Jordan Allen, Mr. Diep, Mr. Khuy, as well as Mr. Ortega, and Mr. Anthony Stanfield, who also lived at the Renton residence, were involved in the fight.
- g. Once in the front yard, Mr. Diep pulled a black pistol and pointed it at Mr. Stanfield's head, and proceeded to strike Mr. Stanfield with the pistol, causing a contusion to his face below his left eye.
- h. Mr. Diep then retreated back to Mr. Khuy's car, with Mr. Khuy driving when they started to leave.
- i. Mr. Khuy drove his car eastward, and then came back westbound in front of the house.
- j. As Mr. Khuy drove by the house, he slowed down and Mr. Deip began firing his pistol towards the people in the yard.
- k. Mr. Ortega was shot.

6. An officer in the area spotted the vehicle that had been reported leaving the scene. Police arrested Mr. Khuy, Mr. Deip and Mr. Youn, who were found in the vehicle.
7. Police obtained a search warrant for Mr. Khuy's car. The search revealed a black Ruger .45-caliber automatic pistol hidden under the front section of the center console on the passenger side, as well as a magazine loaded with 7.45 cal cartridges hidden under the front section of the center console on the driver's side. Police also found small plastic bags and scales commonly used in the packaging and selling of illegal drugs in the trunk of the car.

CONCLUSIONS OF LAW

I.

- 1) RCW 9.46.070(17) provides that the Commission shall have the following powers and duties: The Commission may authorize the Director to temporarily suspend licenses subject to final action by the Commission.
- 2) WAC 230-17-165(2) provides that the Director may issue an order to summarily suspend any license or permit if the Director determines that a licensee or permittee has performed one or more of the actions identified in RCW 9.46.075 as posing a threat to public health, safety, or welfare.
- 3) WAC 230-17-165(3)(a) provides that the Commission deems the following actions of a licensee or permittee constitute an immediate danger to the public safety and welfare: Failing or refusing to comply with the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW or any rules adopted by the Commission.
- 4) WAC 230-17-165(3)(b) provides that the Commission deems the following actions of a licensee or permittee constitute an immediate danger to the public safety and welfare: Knowingly causing, aiding, abetting or conspiring with another to cause any person to violate any of the laws of this state or the rules of the Commission.
- 5) WAC 230-17-165(3)(f) provides that the Commission deems the following actions of a licensee or permittee constitute an immediate danger to the public safety and welfare: Being subject to current prosecution or pending charges, or appealing a conviction for any of the offenses included under (d) of this subsection, including at (vii) Any crime, whether a felony or a misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

Class III employee, Chantha Khuy has been charged with 1st Degree Felony Rendering Criminal Assistance, resulting in the death of Joel Ortega. The certified employee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a),(b) and (f), and are a basis for immediate cessation of Mr. Khuy's certified activities.

6) RCW 9.46.075(1) provides the Commission may revoke any license or permit for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein any person with any interest therein: Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission.

7) WAC 230-03-085(1) and (8) provide that the Commission may revoke a license or permit when the licensee or permittee poses a threat to the effective regulation of gaming or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities as demonstrated by prior activities.

8) RCW 9.46.075 (9) provides the Commission may revoke any license or permit for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein any person with any interest therein: Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under section (4) of this section, including any crime, whether felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

9) RCW 9.46.075(8) provides the Commission may revoke any license or permit when a licensee or permittee fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each licensee and permittee to establish by clear and convincing evidence the necessary qualifications to hold a license or permit.

Class III employee, Chantha Khuy has been charged with 1st Degree Felony Rendering Criminal Assistance, resulting in the death of Joel Ortega. Mr. Khuy poses a threat to the effective regulation of gaming as demonstrated by his conduct, and he has failed to prove that he is qualified to hold a license or permit, in violation of RCW 9.46.153. Grounds, therefore exist to revoke Chantha Khuy's certification based on RCW 9.46.075(1), (8) and (9), and WAC 230-03-085(1) and (8).

II.

Immediate cessation of Chantha Khuy's gambling activity is required for the protection and preservation of the safety and welfare of the public based on Mr. Khuy's failure to comply with the provisions imposed by chapter 9.46 RCW or any rules adopted by the Commission pursuant to WAC 230-17-165(3)(a).

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW, it is the ORDER of the undersigned Director, based on the authority granted to him by RCW 9.46.070(17), the Muckleshoot Tribal-State Compact, RCW 34.05.422, and WAC 230-17-165, that Chantha Khuy's Class III Certification within the State of Washington is hereby summarily suspended pending a formal hearing by an Administrative Law Judge.

This summary suspension will be effective immediately upon the service of this Order to the Class III Employee or an authorized representative or agent.

STATEMENT OF RIGHTS

1) **You have a right to petition for a stay of this Order.** You may request a stay by filing a written request with the Commission. **Any request for a stay must be received by the Commission within fifteen (15) days** of service of this Order upon you. If a timely request for a stay is received by the Commission, **a hearing regarding a request for stay will be conducted within seven (7) days** in accordance with WAC 230-17-170.

The stay hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified. **Furthermore, at the hearing, the Certified Employee shall have the burden of demonstrating by clear and convincing evidence that:**

- (a) The Certified Employee is likely to prevail upon the merits at hearing;
- (b) Without relief, the Certified Employee will suffer irreparable injury. For purposes of this section, elimination of income from certified activities shall not be deemed irreparable injury;
- (c) The grant of relief will not substantially harm other parties to the proceedings; and
- (d) The threat to the public safety or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

A request for a stay does not constitute a request for a hearing as provided in paragraph (2) of this Statement of Rights.

(2) **You also have a right to a full hearing on the merits in this matter.** You may request a hearing by completing and returning to the Commission the enclosed Application for Adjudicative Proceeding and Request for Hearing. Failure to submit the Application for Adjudicative Proceeding and Request for Hearing form within twenty (20) days of service of this order upon you shall result in a waiver of your right to an adjudicative proceeding and entry of an order in default under RCW 34.05.440.

If a timely application for a hearing is received, a hearing shall be conducted no sooner than seven (7) days nor later than 90 days from the date of service of this Order unless otherwise agreed to by the parties: Provided, That you may waive the seven (7) day notice rule of RCW 34.05.434 and request a hearing at an earlier date.

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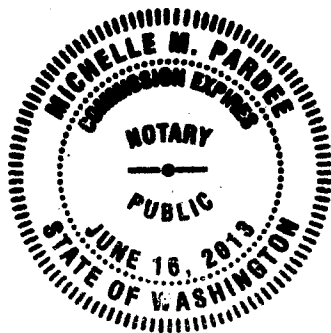
If you have any questions regarding the rights stated above, please contact Staff Attorney, Brenda Bono at (800) 345-2529 ext. 3470, or Paralegal Michelle Pardee at ext. 3465.

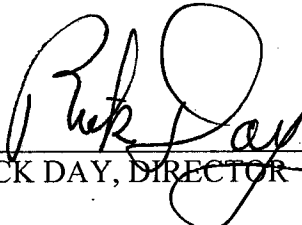
STATE OF WASHINGTON)

) ss.

COUNTY OF THURSTON)

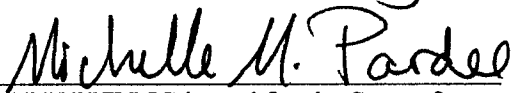
Rick Day, being first duly sworn on oath, deposes and says: He has read this Order of Summary Suspension of Chantha Khuy's Class III Certification, knows the contents, and believes the same to be true, and that he is the duly appointed and qualified Director of the Washington State Gambling Commission and in that capacity has executed this Order of Summary Suspension of the Class III Certification.





RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 1st day of February, 2010.



NOTARY PUBLIC in and for the State of
Washington residing at: Lacey.
My commission expires June 16, 2013